

Unofficial Draft Copy

As of: September 26, 2008 (8:37am)

LC0144

**** Bill No. ****

Introduced By *****

By Request of the Legislative Finance Committee

A Bill for an Act entitled: "An Act revising the law governing state facility planning and management, providing for accountability, efficiency, and oversight; and amending Section 2-17-101; and providing an effective date."

WHEREAS, The legislature finds that the capital stock of facilities owned and leased by state agencies represents a significant financial investment by the citizens of the state of Montana; and

WHEREAS, Capital construction projects funded in the state's capital construction budget require diligent analysis and approval by the governor and the legislature and in some cases, long-term leases obligate state agencies to a larger financial commitment than some capital construction projects without a comparable level of diligence; and

WHEREAS, State facility analysis and portfolio management can be strengthened through greater oversight and reporting to the office of budget and program planning and the legislature; and

WHEREAS, The legislature finds that the state lacks specific policies and standards on conducting life-cycle cost analysis to determine the cost-effectiveness of owning or leasing state facilities and lacks clear guidance on when and how to use it;

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and

WHEREAS, there is limited oversight and review of the results of life-cycle cost analyses in decisions to acquire facility space for state agencies and unless decision makers are provided a thorough economic analysis, they cannot identify the most cost-effective alternative or identify opportunities for improving the cost-effectiveness of state facility alternatives.

Be it enacted by the Legislature of the State of Montana:

Section 1. Section 2-17-101, MCA, is amended to read:

"2-17-101. Allocation of space. (1) The department of administration shall determine the space required by state agencies other than the university system and shall allocate space in buildings owned or leased by the state, based on each agency's need. ~~To efficiently and effectively allocate space, the department periodically shall identify the amount, location, and nature of space used by each agency.~~

(2) An agency requiring additional space shall notify the department and provide the space needs analysis specified in section 6. The department, in consultation with the agency, shall determine the amount and nature of the space needed and locate space within a building owned or leased by the state to meet the

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agency's requirements. If space is not available in a building owned or leased by the state, the department shall, subject to the requirements of section 4 and section 5, locate space to be leased in an appropriate building or recommend alternatives to leasing, such as constructing or purchasing a building, remodeling or exchanging space with another agency. A state agency may not lease, rent, or purchase real property ~~for quarters~~ without prior approval of the department.

(3) (a) The location of the chambers for the house of representatives must be determined in the sole discretion of the house of representatives. The location of the chambers for ~~of~~ the senate must be determined in the sole discretion of the senate.

(b) Subject to 2-17-108, the department, with the advice of the legislative council, shall allocate other space for the use of the legislature, including but not limited to space for committee rooms and legislative offices.

(4) For state agencies located in a city other than Helena, the department shall consolidate the offices of these agencies in a single, central location within the city whenever the consolidation would result in a cost savings to the state while permitting sufficient space and facilities for the agencies. The department may purchase, lease, or acquire, by exchange or otherwise, land and buildings in the city to achieve consolidation. Offices of the law enforcement services division and motor vehicle division of the department of justice are exempted from consolidation."

{Internal References to 2-17-101:

2-17-108 x 5-2-503 x}

NEW SECTION. **Section 2. Implementation plan.** The office of budget and program planning, in consultation with the state administration and veteran's affairs interim committee and the legislative finance committee, shall prepare an implementation plan to improve the oversight of real estate procurement and management practices. The plan must identify specific steps that state government can take to better manage the acquisition, ownership, lease, and disposition of office and warehouse space so that state services are delivered in an effective manner. The plan must be submitted to the governor and the appropriate committees of the legislature by October 1, 2009.

NEW SECTION. **Section 3. Life-cycle cost model and analysis--duties of the department of administration.**

The department of administration shall:

- (1) design and implement a cost-effective life-cycle cost model by April 1, 2010, based on the model developed by the State of Washington for use on all lease or own decisions;
- (2) develop and implement clear policies, standards and procedures by April 1, 2010 for: (a) determining space requirements; (b) documenting space request and allocation processes; (c) defining roles and responsibilities of reporting space inventories and life-cycle cost analysis and using the life-cycle cost model; and (d) documenting and justifying any deviation from the standard assumptions;
- (3) deploy the life-cycle cost model for use by state agencies for all lease or own decisions once completed and tested; and

(4) update the key model assumptions, including the discount rate, biennially.

NEW SECTION. Section 4. **Approval of leases--privately owned buildings being planned or under construction.**

State agencies are prohibited from entering into lease agreements for privately owned buildings that are in the planning stage of development or under construction unless there is prior written approval by the budget director. Approval of the leases may not be delegated.

NEW SECTION. Section 5. **Long-term facility needs.**

The department of administration shall:

- (1) work with all tenant agencies to determine the long-term facility needs of state government; and
- (2) develop and submit a facility plan to the legislature for the current biennium through the next two biennia by January 1st of each year beginning January 1, 2011, that includes state agency space requirements and other pertinent data necessary for cost-effective facility planning.

NEW SECTION. Section 6. **Space needs analysis for requests to lease, purchase, or build facilities for state programs.**

- (1) The department of administration shall design and implement a space needs analysis process for all space needs requests.
- (2) When agencies identify a space need, the agency shall submit a request for space to the department of administration on the form specified by the department of administration. If the department of administration is unable to locate acceptable space

in a building owned or leased by the state the department shall notify the requesting agency of this and the state agency shall complete and submit a space needs analysis report to the department of administration, the office of budget and program planning and the legislative fiscal analyst. The space needs analysis must include a problem statement and an analysis of alternatives to address the programmatic and space requirements. The analysis of alternatives must include: (a) an evaluation of relocating operations in other communities as considered appropriate; (b) life-cycle cost analysis of all alternatives; and (c) an impact analysis of proposed alternatives on the agency's programs or service delivery.

(3) In order that the department of administration can engage in planning for the current biennium through the next two biennia for state agency space needs, the department shall include agency consolidation and state building construction or purchase alternatives when examining lease retirement or renewals. Life-cycle cost analysis must be used in evaluating the alternatives.

NEW SECTION. Section 7. **Inventory of state-owned or leased facilities--report.** The department of administration shall develop and maintain an inventory database to account for all owned or leased facilities utilized by state government. At a minimum, the inventory database must include the facility owner, location, type, condition, size of each facility and number of full time employees currently located there as well as the maximum allowable number that could be located there. In

addition, for state owned facilities, the inventory system must include the date of original construction and the ownership cost and for leased facilities the end date for the lease and the annual cost of the lease. The inventory must be updated by January 1st of each year. The department of administration shall publish a report summarizing the information contained in the inventory system for each agency by March 1st of each even year, beginning in 2012, and shall submit this report to the office of budget and program planning and to the legislative fiscal analyst. By September 1st of each year, the department of administration shall provide to the office of program planning and the legislative fiscal analyst, a report detailing any new leases executed during the previous year along with their lease terms and annual lease cost.

(2) All agencies, departments, boards, commissions, and institutions of the state of Montana shall provide to the department of administration a complete inventory of owned and leased facilities by September 1, 2010. The inventory must be updated and submitted to the department of administration by September 1st of each subsequent year. The inventories required under this subsection must be submitted in a standard format prescribed by the department of administration. A report on leases with terms of 10 years or more must be included as a part of the long-range building program request to the legislature.

(3) (a) For the purposes of this section, "facilities" means buildings and other structures with walls and a roof.

(b) "Facilities" does not mean roads, bridges, parking areas,

utility systems, and other similar improvements to real property.

NEW SECTION. **Section 8. State facility lease-limit on lease term.**

The director of the department of administration may fix the terms and conditions of each lease entered into under this chapter, except that a lease may not extend greater than 20 years in duration unless specifically authorized by the legislature. The director of the department of administration may enter into a long-term lease of up to 10 years in duration upon a determination by the director that the previous legislature disapproved a request for construction or purchase of a state-owned building for that agency. With the agreement of the budget director, the director of the department of administration may enter into a long-term lease greater than 10 years in duration if the previous legislature disapproved a request for construction or purchase of a state-owned building for that agency and the budget director determines the proposed facility is necessary for the full term of the lease and the longer term lease is more favorable than would otherwise be available for a shorter term lease.

NEW SECTION. **Section 9. {standard} Effective date.** [This act] is effective July 1, 2009.

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